

Exhibit 1



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Transcript of William A.V. Clark, Ph.D.

Date: December 22, 2016

Case: de Reyes, et al. -v- Waples Mobile Home Park Limited
Partnership, et al.

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Transcript of William A.V. Clark, Ph.D.

1 (1 to 4)

Conducted on December 22, 2016

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| | 1 | | 3 |
| 1 | IN THE UNITED STATES DISTRICT COURT | 1 | A P P E A R A N C E S |
| 2 | FOR THE EASTERN DISTRICT OF VIRGINIA | 2 | ON BEHALF OF THE PLAINTIFFS: |
| 3 | Alexandria Division | 3 | JONGWOOK KIM, ESQUIRE |
| 4 | -----x | 4 | (Appearing by Videoconference) |
| 5 | ROSY GIRON DE REYES, : 5 | 5 | Quinn Emanuel Urquhart & Sullivan, LLP |
| 6 | et al., : 6 | 6 | 777 Sixth Street, NW |
| 7 | Plaintiffs, : Civil No.: 7 | 7 | Eleventh Floor |
| 8 | v. : 1:16cv563-TSE-TCB 8 | 8 | Washington, D.C. 20001 |
| 9 | WAPLES MOBILE HOME PARK LIMITED : 9 | 9 | (202) 538-8000 |
| 10 | PARTNERSHIP, : 10 | | |
| 11 | et al., : 11 | | ON BEHALF OF THE DEFENDANTS: |
| 12 | Defendants. : 12 | | MICHAEL S. DINGMAN, ESQUIRE |
| 13 | -----x 13 | | JUSTIN D. deBETTENCOURT, ESQUIRE |
| 14 | Videoconference Deposition of 14 | | Reed Smith, LLP |
| 15 | WILLIAM A.V. CLARK, Ph.D. 15 | | 7900 Tysons One Place |
| 16 | McLean, Virginia 16 | | Suite 500 |
| 17 | Thursday, December 22, 2016 17 | | McLean, Virginia 22102 |
| 18 | 4:05 p.m. 18 | | (703) 641-4200 |
| 19 | | | 19 |
| 20 | Job No: 130604 20 | | ALSO PRESENT: Karen Condon |
| 21 | Pages: 1 - 87 21 | | (Appearing by Videoconference) |
| 22 | Reported by: Kelly Carnegie, CSR, RPR 22 | | |
| | 2 | | 4 |
| 1 | Videoconference Deposition of WILLIAM A.V. | 1 | C O N T E N T S |
| 2 | CLARK, Ph.D., held at the offices of: 2 | | EXAMINATION OF WILLIAM A.V. CLARK, Ph.D. PAGE |
| 3 | | 3 | By Mr. Dingman 5 |
| 4 | | 4 | |
| 5 | | 5 | |
| 6 | Reed Smith, LLP 6 | | |
| 7 | 7900 Tysons One Place 7 | | E X H I B I T S |
| 8 | Suite 500 8 | | (Exhibits retained by counsel.) |
| 9 | McLean, Virginia 22102 9 | | DEPOSITION EXHIBITS PAGE |
| 10 | | 10 | Exhibit 1 Expert Report of |
| 11 | | 11 | William A.V. Clark, Ph.D. 56 |
| 12 | | 12 | Exhibit 2 Expert Reply Report of |
| 13 | | 13 | William A.V. Clark, Ph.D. 72 |
| 14 | Pursuant to Notice, before Kelly Carnegie, 14 | | |
| 15 | Certified Shorthand Reporter, Registered 15 | | |
| 16 | Professional Reporter, and Notary Public in and for 16 | | |
| 17 | the Commonwealth of Virginia. 17 | | |
| 18 | | 18 | |
| 19 | | 19 | |
| 20 | | 20 | |
| 21 | | 21 | |
| 22 | | 22 | |

Transcript of William A.V. Clark, Ph.D.

2 (5 to 8)

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| | 5 | | 7 |
| 1 PROCEEDINGS | | 1 simply give the most complete answer that you can to | |
| 2 MR. DINGMAN: Let's go on the record. | | 2 the questions that are put to you. Do you | |
| 3 I'll state this and then ask for your | | 3 understand that you are testifying under oath? | |
| 4 agreement, Wookie. It's the following: We | | 4 A Yes. | |
| 5 understand that the court reporter is administering | | 5 Q Is there any reason you're not able to | |
| 6 the oath even though she is not in the presence of | | 6 testify fully and truthfully today? | |
| 7 the deponent. Nevertheless, we stipulate that the | | 7 A No. | |
| 8 report can administer the oath and further agree | | 8 Q What have you done to prepare for your | |
| 9 that there will be no objection to the admissibility | | 9 deposition? | |
| 10 of the transcript based on the oath. | | 10 A I reread my report and response to Dr. | |
| 11 Are we in agreement on that? | | 11 Weinberg, and reread Dr. Weinberg's report, and this | |
| 12 MR. KIM: Yes, we're in agreement. | | 12 morning I met with Mr. Kim. | |
| 13 MR. DINGMAN: Thank you. | | 13 Q Did you meet with anyone besides Mr. Kim | |
| 14 Whereupon, | | 14 this morning? | |
| 15 WILLIAM A.V. CLARK, Ph.D. | | 15 A No. | |
| 16 being first duly sworn or affirmed to testify to the | | 16 Q Have you previously testified as an expert | |
| 17 truth, the whole truth, and nothing but the truth, | | 17 witness in a lawsuit involving a claim of disparate | |
| 18 was examined and testified as follows: | | 18 impact? | |
| 19 EXAMINATION BY COUNSEL FOR THE DEFENDANTS | | 19 A Yes. | |
| 20 BY MR. DINGMAN: | | 20 Q Do you understand that phrase, "disparate | |
| 21 Q Please state your name, sir. | | 21 impact?" | |
| 22 A William Arthur Valentine Clark, C-l-a-r-k. | | 22 A Yes. | |
| | 6 | | 8 |
| 1 Q Mr. Clark, have you been deposed | | 1 Q What is your understanding of that term? | |
| 2 previously as an expert witness? | | 2 A It's when some policy or some decision | |
| 3 A I have. | | 3 affects some groups differently than others. | |
| 4 Q On approximately how many occasions? | | 4 Q And have you testified as an expert | |
| 5 A Somewhere in the range of 35 to 40 times. | | 5 witness in any lawsuits involving that type of | |
| 6 Q All right. So you're familiar with the | | 6 claim? | |
| 7 deposition process, but let me just go over some of | | 7 A Yes. | |
| 8 the instructions for the deposition. | | 8 Q How many such lawsuits have you testified | |
| 9 I'll be asking you questions about your | | 9 in? | |
| 10 opinions in this lawsuit. If I ask a question that | | 10 A Recently, I believe four. There may have | |
| 11 you do not understand or does not make sense to you, | | 11 been some others in the past. | |
| 12 please let me know and I'll rephrase it so that you | | 12 Q Can you identify the four cases that | |
| 13 can answer it. The understanding will be if you | | 13 you've recently testified as an expert witness in a | |
| 14 answer the question, then you've understood it, | | 14 lawsuit involving disparate impact claims. | |
| 15 okay? | | 15 A The most recent one was listed on my | |
| 16 A Yes. | | 16 report and related to a housing case in San Jose, | |
| 17 Q And as I'm sure you've been told before, | | 17 California. Previous to that, there were two cases | |
| 18 all answers need to be verbal, especially since it's | | 18 with respect to disparate impact and housing in | |
| 19 videoconference, as opposed to a head shake or an | | 19 Koreatown in Los Angeles, and before that there was | |
| 20 "uh-huh" so that the transcript is clear, all right? | | 20 a disparate impact case in Milwaukee. | |
| 21 A Yes. | | 21 Q With respect to the case that you referred | |
| 22 Q The obligation for you under oath is to | | 22 to in -- that's identified in your expert report, | |

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3 (9 to 12)

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| 1 there were three cases there, one involving the 2 Little Rock School District, one involving Pitt 3 County Schools, and then one called Jones versus 4 Travelers. Which of those cases involved the 5 disparate impact claim? | | 1 protected class, if you will, that was affected by 2 the decision? | |
| 6 A The disparate impact claim was in the 7 Travelers case. | | 3 A The argument was that the Section 8 4 tenants were a protected class -- | |
| 8 Q And then you mentioned there was one 9 involving Koreatown and one in Milwaukee. Is that 10 correct? | | 5 Q Regarding -- | |
| 11 A There were two in Koreatown, one in 12 Milwaukee. | | 6 A -- which many of them were -- because many 7 of them were minorities. | |
| 13 Q Okay. Is the Travelers case the most 14 recent one? | | 8 Q What were you asked to do in that case? | |
| 15 A Yes. | | 9 A I was asked to analyze the distribution of 10 Section 8 tenants and to evaluate their residential 11 locations and whether or not they were concentrated 12 within the city of San Jose. | |
| 16 Q Okay. Who retained you in the Travelers 17 case? | | 13 Q Did you prepare a report in that case? | |
| 18 A A law firm in San Jose. I don't recall 19 the name of the attorney at the moment. | | 14 A I did. | |
| 20 Q For which party in that case were you 21 retained? | | 15 Q What were the conclusions of your report? | |
| 22 A For the Travelers Insurance Group. | 10 | 16 A That's about 18 months ago and I don't -- 17 I haven't reviewed the report recently, so I don't 18 have specifics that I can give you on the 19 conclusions. | |
| 1 Q What were the claims at issue in that 2 case? | | 20 Q Do you recall generally what the 21 conclusions were? | |
| 3 A The plaintiffs owned rental housing in San 4 Jose and they rented apartments to Section 8 5 tenants. Travelers insured that property under 6 commercial insurance. They declined to renew the 7 insurance policy when it expired. The suit was 8 brought arguing that they made that decision in -- 9 by making that decision, they had a disparate impact 10 on Section 8 tenants who were renting those 11 apartments. | | 22 A I wouldn't want to state them without 12 | |
| 12 Q What group in that case claimed to have 13 been disparately impacted by that decision? | | 1 reviewing the report again. | |
| 14 A The group was the Section 8 tenants. | | 2 Q Did the case proceed to trial? | |
| 15 Q Was there any specific race or ethnicity 16 of the Section 8 tenants at issue in that case? | | 3 A No. | |
| 17 A I don't recall whether race was an issue. 18 It was about Section 8 tenants, many of whom of 19 course were minorities, but I don't know that it was 20 specifically about race. It was essentially about 21 affecting Section 8 residents. | | 4 Q You mentioned that you were also involved 5 in two cases involving Koreatown where disparate 6 impact was at issue. Can you tell me approximately 7 what years those cases took place? | |
| 22 Q Let me ask it this way: What was the | | 8 A In 2010 to 2012, in that range, perhaps 9 one a little earlier. | |
| | | 10 Q Who retained you in -- were those cases 11 related, or were they separate lawsuits? | |
| | | 12 A I think they were separate lawsuits, but 13 they related to the same management company. | |
| | | 14 Q Who retained you in those lawsuits? | |
| | | 15 A Manatt Phelps. | |
| | | 16 Q Were you retained on behalf of the 17 plaintiff or the defendants in that case or those 18 cases? | |
| | | 19 A I -- excuse me. I was retained on behalf 20 of the defendant. | |
| | | 21 Q Who were the defendants in those cases? | |
| | | 22 A I think the correct -- Donald Sterling and | |

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|---|---|
| <p>13</p> <p>1 Sterling Associates.</p> <p>2 Q So you were retained on behalf of Mr. 3 Sterling?</p> <p>4 A Mr. Sterling was the owner of the 5 apartments. I was retained by the corporation of 6 which he was at that time the majority owner.</p> <p>7 Q What were the disparate impact issues in 8 the Koreatown cases?</p> <p>9 A The disparate impact issue related to 10 whether or not the corporation was renting 11 disproportionately to Korean tenants vis-a-vis 12 Hispanic and black tenants.</p> <p>13 Q And what were you asked to do in that case 14 on behalf of the defendants?</p> <p>15 A I was asked to do a statistical analysis 16 of all of the rental buildings in Koreatown.</p> <p>17 Q For what purpose?</p> <p>18 A To determine whether or not there was a 19 differential impact on Hispanic and black tenants 20 vis-a-vis Korean tenants.</p> <p>21 Q How did you go about performing that 22 analysis?</p> | <p>15</p> <p>1 and I think there's something else, but it doesn't 2 come to my mind right now -- whereas the ACS is 3 sample survey data and does not count the total 4 population as does the 2010 decennial census.</p> <p>5 Q What is the difference in the survey set 6 or numbers of individuals survived between the 7 decennial census and the ACS data?</p> <p>8 A If I heard correctly, you're asking what 9 is the difference in the sample data between the ACS 10 and the decennial?</p> <p>11 Q Yes, sir.</p> <p>12 A The decennial census is not a sample. It 13 is a count of the population. The ACS is a sample 14 survey conducted on a rolling basis.</p> <p>15 Q What percentage of the population is 16 surveyed as part of the ACS process?</p> <p>17 A It's a rolling sample of approximately 18 three million households, so it's a much -- it's 19 about three -- less than three percent.</p> <p>20 Q How did you use the ACS data with respect 21 to your opinions in the Koreatown cases?</p> <p>22 A I used it to capture current information</p> |
| <p>14</p> <p>1 A I did census analysis of data in 2 Koreatown, which in fact, despite its name, is 3 largely Hispanic. And I also did specific analyses 4 of the occupancy of 23 to 28 buildings -- I don't 5 recall the exact number -- in Koreatown.</p> <p>6 Q What census data did you review or analyze 7 as part of the work that you did in those cases?</p> <p>8 A I used both 2010 census data and 2005 to 9 2012 ACS data.</p> <p>10 Q Your reference to ACS, that's to the 11 American Community Survey?</p> <p>12 A That's correct.</p> <p>13 Q What was the other census data that you 14 relied on?</p> <p>15 A The decennial census from 2010, which is 16 the complete census on race and ethnicity.</p> <p>17 Q What is the difference between the 18 decennial census and the ACS data?</p> <p>19 A The decennial census as of 2010 now uses 20 the short form which collects specific data that can 21 be used for redistricting and in effect captures 22 only the most basic information -- age, sex, race,</p> | <p>16</p> <p>1 on what was happening in Koreatown after the 2010 2 decennial census.</p> <p>3 Q What data did you rely upon from the ACS 4 information as part of your analysis in that case?</p> <p>5 A The same data that I used with the 6 decennial data, that is, data on age, race, and 7 ethnicity.</p> <p>8 Q Did you accept the ACS data without any 9 modification?</p> <p>10 A I'm not sure I know what you mean by 11 accept the data. The data is the data. I used what 12 the ACS published.</p> <p>13 Q So if the ACS data, for example, said 30 14 percent of the occupants or inhabitants of 15 Koreatown, the total Hispanic population was 30 16 percent, you would have just accepted that without 17 any modification by you. Is that right?</p> <p>18 A I accepted the ACS data as published with 19 the usual comments on their estimates of range of 20 error and the other information they provided about 21 their estimates.</p> <p>22 Q So that I'm clear, in your -- in the</p> |

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5 (17 to 20)

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| <p>17 1 opinions you provided in the Koreatown case, did you 2 rely on the data from the ACS, or did you rely upon 3 that as a starting point for your analysis?</p> <p>4 A I used the ACS data in constructing 5 estimates on the population in Koreatown and the 6 changes over time.</p> <p>7 Q So did the ACS data tell you what the 8 population breakout was for Koreatown?</p> <p>9 A With some work on the way in which the 10 data is prepared at the tract level, I was able to 11 make estimates for Koreatown, but of course there is 12 no exact match to what Koreatown is and the census 13 tracts because Koreatown is a verbal statement about 14 a general area in the city.</p> <p>15 Q As part of your opinions in the Koreatown 16 case, did you estimate the population breakdown by 17 ethnicity in that location?</p> <p>18 A I believe I did.</p> <p>19 Q Were those breakdowns based solely on the 20 ACS data, or some change to that data that you 21 implemented?</p> <p>22 A You're asking me to recall work of several</p> | <p>19 1 Q What were your conclusions in the 2 Koreatown cases?</p> <p>3 A Again, I respond by saying I'm recalling 4 material from a period of time several years ago 5 now. The general conclusion was that when you 6 factored in the cost of housing and the 7 affordability of housing, there was not a disparate 8 impact on Hispanic or African-American tenants.</p> <p>9 Q Did that -- did those cases proceed to a 10 trial?</p> <p>11 A One of the cases, which began as a 12 disparate impact case, transformed into a 13 discrimination case and went to trial. The other 14 case was settled.</p> <p>15 Q Okay. You also mentioned that you were 16 involved in a disparate impact case in Milwaukee. 17 What was the year of that case?</p> <p>18 A I don't recall.</p> <p>19 Q And you mentioned just a minute ago that 20 one of the Koreatown cases became a discrimination 21 case. Have you testified as an expert witness in 22 any discrimination or disparate treatment case?</p> |
| <p>18 1 years ago, and I can't give you more specifics than 2 I already have. I worked with that data as only a 3 small fraction of the work on the disparate impact 4 analysis. It was essentially contextual to provide 5 data on what the population composition of Koreatown 6 was at the time.</p> <p>7 Q Other than the ACS data and the decennial 8 information, what other information did you consider 9 in your analysis in the Koreatown cases?</p> <p>10 A Well, the most important data of course 11 was the data on the occupancy of the buildings and 12 the tenants themselves, and I had specific data on 13 every resident in all the buildings in Koreatown, 14 including the rents paid, the period of occupancy, 15 and a range of information about the buildings 16 themselves.</p> <p>17 Q How did that information assist you in 18 performing your analysis in that case?</p> <p>19 A If I recall correctly, much of the case 20 related to the levels of rents and the affordability 21 of people in the buildings versus the pool that 22 could afford to rent those buildings.</p> | <p>20 1 A I have certainly given depositions and 2 I've certainly testified about discriminatory impact 3 in school desegregation cases. I don't know that 4 I've ever testified about discrimination in 5 disparate impact.</p> <p>6 Q Do you understand the distinction between 7 a disparate impact and a disparate treatment claim?</p> <p>8 A Yes.</p> <p>9 Q What's your understanding of the 10 difference?</p> <p>11 A Prior to the Texas ruling of about a year 12 ago, the issue in showing disparate impact was that 13 you were also concerned with intent. After the 14 Texas ruling, as I understand it, it's essentially 15 sufficient to show statistical differences to prove 16 disparate impact.</p> <p>17 Q The Texas case, are you referring to The 18 Inclusive Communities case?</p> <p>19 A Yes.</p> <p>20 Q Have you been involved previously with any 21 study or effort to estimate the undocumented 22 immigrant population for any particular area of the</p> |

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| | 21 | | 23 |
| 1 United States? | | 1 the estimates. As a demographer, I don't know what | |
| 2 A Yes. | | 2 more you would do except evaluate the methodology | |
| 3 Q On how many occasions? | | 3 and look at the estimates and discuss the findings | |
| 4 A I wrote two books, "The California | | 4 that you can draw from that. | |
| 5 Cauldron" and "The American Dream," both of which | | 5 Q What methodology was utilized for those | |
| 6 have substantial sections on undocumented | | 6 estimates that you relied upon in your "California | |
| 7 immigrants, the estimation of those populations, and | | 7 Cauldron" book? | |
| 8 discussions of their locations, outcomes, and a | | 8 A Well, as you probably know, the work on | |
| 9 variety of demographic aspects. | | 9 undocumented immigrants is an evolving issue and it | |
| 10 Q Let's start first with the book you | | 10 began with people who looked at the I53 cards, I | |
| 11 mentioned. I think it was "The California | | 11 believe they were called, which were required of | |
| 12 Cauldron." Is that correct? | | 12 every resident alien, and they used a comparison of | |
| 13 A Yes. | | 13 those with the actual census data to come up with | |
| 14 Q When was that book published? | | 14 estimates, which suggested back in the 1990s that | |
| 15 A In the 1990s. | | 15 there was somewhere between two and four million | |
| 16 Q And what undocumented population did you | | 16 undocumented immigrants. That number varied over | |
| 17 estimate in that publication? | | 17 time as people attempted to refine the technology to | |
| 18 A I used data on the undocumented population | | 18 get a better estimate of the undocumented | |
| 19 that had been published and estimated by others. I | | 19 population. | |
| 20 didn't provide estimates myself of the undocumented | | 20 Q What area of the United States were you | |
| 21 population. | | 21 attempting to estimate the undocumented population | |
| 22 Q So you accepted the estimates that others | | 22 for in "The California Cauldron" book? | |
| | 22 | | 24 |
| 1 had provided. Is that correct? | | 1 A I think we established I wasn't trying to | |
| 2 A I used those estimates. I described them. | | 2 estimate it. I was using estimates that had been | |
| 3 I discussed them. I evaluated them. To that | | 3 prepared by demographers who were using their skills | |
| 4 extent, I utilized them in my published book. | | 4 to provide us with the best estimate they could. | |
| 5 Q What did you do to evaluate those | | 5 And it was for California, to answer your specific | |
| 6 estimates? | | 6 question. | |
| 7 A I did what all demographers do: I | | 7 Q The other book you mentioned was "The | |
| 8 validated to the extent I could how those estimates | | 8 American Dream." When was that book published? | |
| 9 had been prepared. | | 9 A 2003, I believe. | |
| 10 Q So you looked at the methodology for how | | 10 Q What was the subject of that book? | |
| 11 those estimates were derived? | | 11 A That was a study of immigrant progress in | |
| 12 A For example, yes. | | 12 the United States over the 30-year period as | |
| 13 Q Did you look at any other data or | | 13 immigration increased from a few hundred thousand to | |
| 14 information to determine the validity of those | | 14 more than a million a year. | |
| 15 estimates? | | 15 Q In that book did you attempt to estimate | |
| 16 A I don't know what you mean by other data. | | 16 the undocumented population for any particular area | |
| 17 Q Other than looking at the methodology for | | 17 of the United States? | |
| 18 these estimates, did you take anything else into | | 18 A I don't recall. I haven't gone back and | |
| 19 account to determine whether the estimates were | | 19 looked at that recently. It did deal with the | |
| 20 accurate? | | 20 undocumented population, but it was not so much a | |
| 21 A Well, we've already discussed the fact | | 21 critical part of that book as it was "The California | |
| 22 that we reviewed the methodology and we looked at | | 22 Cauldron." | |

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7 (25 to 28)

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| <p>1 Q Let me ask you sort of the predicate 2 question: We've been using the phrase "undocumented 3 population." What does that phrase mean to you?</p> <p>4 A Well, it's a general term that we use to 5 describe residents of the United States without 6 documentation. They could be people who have come 7 in entry without inspection, or they could be people 8 who have come in with inspection and stayed beyond 9 the time of their visas. So it's a general term to 10 describe people who do not have the appropriate 11 documentation for residents in the U.S.</p> <p>12 Q So the undocumented population would refer 13 to those who were in the United States illegally?</p> <p>14 A That -- that's been a term that's been 15 used, but there's been discussions about whether you 16 should use "illegal" rather than using the term 17 "undocumented." But you could by definition say 18 that if they're here without documentation, they are 19 not legal residents.</p> <p>20 Q Other than the two books you have 21 mentioned, have you been involved in any other 22 studies, publications of any kind in which the</p> | <p>25</p> <p>1 that that we believe contains the true value if we 2 had actually counted the population.</p> <p>3 Q How do you determine the margin of error 4 for a particular estimate?</p> <p>5 A From a variety of statistical methods, 6 that effectively you are asking essentially 7 questions about what is the reliability of a number 8 that you've calculated, and you say, well, that 9 number could vary by a certain percentage either 10 side. Think of it as like a bell curve.</p> <p>11 The true value is, say, the average age of 12 the population of the United States, 33.5. If we 13 counted everybody and estimated their age, that's 14 the true value. We take a sample, we get a number 15 that's somewhat near that. If we kept taking 16 samples, more will be near the true value than will 17 be further away from it. That range is what we use 18 to calculate the margin of error.</p> <p>19 Q What factors impact the reliability of an 20 estimate?</p> <p>21 A How well you do the sample, how much 22 variance there is in the population, the skills of</p> |
| <p>26</p> <p>1 subject was an attempt to estimate the undocumented 2 population in a particular geographical area?</p> <p>3 A There may be other publications which have 4 certainly been involved with discussions of the 5 undocumented population. Your specific question 6 about whether I have estimated it for specific 7 areas, I don't believe that I have articles that 8 have done that.</p> <p>9 Q Have you engaged in that type of analysis 10 as an expert witness on any occasion other than this 11 case?</p> <p>12 A I believe it was part of the Koreatown 13 study. We were concerned with people who were 14 documented or not, but I don't think that that 15 became an essential part of that case.</p> <p>16 Q In the reports in this case, Professor 17 Clark, there's a term that's used called "margin of 18 error." Can you define that term for me.</p> <p>19 A When statisticians and demographers make 20 estimates using samples, they recognize that there 21 is some -- because it's not a count, there is some 22 error in the result, and we provide a range around</p> | <p>28</p> <p>1 the demographer doing the estimate.</p> <p>2 Q Does the size of the sample impact the 3 reliability of the estimate that's derived from it?</p> <p>4 A The size of the sample plays a role, yes.</p> <p>5 Q What role does that play?</p> <p>6 A Well, larger samples are usually likely to 7 be more accurate.</p> <p>8 Q When you take into account these various 9 factors that could affect the reliability of the 10 estimate, is there a particular method by which you 11 then determine the margin of error?</p> <p>12 A Well, the margin of error is calculated as 13 a -- as a -- using the statistical probability. You 14 ask what's the reliability of the estimate based on 15 a five percent variation, a ten percent variation, 16 and you produce that estimate as a measure of the 17 potential variation in the true value.</p> <p>18 Q In determining your margin of error, is 19 that determined at all by the confidence level that 20 you utilize?</p> <p>21 A The confidence level influences -- you can 22 have margins of error at various confidence levels.</p> |

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8 (29 to 32)

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| | 29 | | 31 | |
| 1 Q | What is the confidence level that you | 1 A | I already said it depends on the sample | |
| 2 consider to be the standard in what you do? | | 2 size at both levels. You could have a large sample | | |
| 3 A Well, it's not what I do. Demographers | 3 size at the local level and you could have a small | | | |
| 4 and census people use various levels of -- various | 4 sample at the national level. | | | |
| 5 probability estimates ranging in the five -- .05 and | | 5 Q | So how do you determine -- | |
| 6 .10, five and ten percent. | | 6 A | The sample size -- excuse me. | |
| 7 Q | Well, the Census Bureau uses a confidence | 7 Q | Go ahead. | |
| 8 level of 90 percent, correct? | | 8 A | No. | |
| 9 A Yes. That's the other way of saying it. | | 9 Q | So how do you make that comparison? | |
| 10 Q | As a demographer, is that an acceptable | 10 A | I don't understand what comparison you | |
| 11 standard to use? | | 11 want. | | |
| 12 A It's used -- of course it is. The census | | 12 Q | So if the sample size at the national | |
| 13 uses it. Demographers use it. | | 13 level is three million, let's assume, and the county | | |
| 14 Q | In looking at a sample, in determining the | 14 size is 3,000 in a county with a population of a | | |
| 15 margin of error, if you go from a larger sample, say | 15 million, how do you as a demographer determine the | | | |
| 16 a national survey, to a county survey, does the | 16 margin of error in comparing those two statistics? | | | |
| 17 margin of error increase as you go from the larger | | 17 A | Well, you're not comparing -- first of | |
| 18 to the smaller area? | | 18 all, it depends on what statistic you're trying to | | |
| 19 A It can, yes. | | 19 estimate. But in the case you provided, three | | |
| 20 Q | Are there any instances where that would | 20 million at the national, 3,000 at the county, the | | |
| 21 not happen? | | 21 margin of error would probably be greater at the | | |
| 22 A I don't know. | | 22 county level than at the national level. | | |
| | 30 | | 32 | |
| 1 Q | Well, would you agree as a general rule | 1 Q | So what I'm trying to get at is in making | |
| 2 that if you go from, say, a national survey to a | | 2 those comparisons, what factors do you as a | | |
| 3 local county survey that the margin of error will | | 3 demographer look at to determine the difference in | | |
| 4 increase? | | 4 the margin of error in that situation? | | |
| 5 A It depends on your sampling methodology. | | 5 A | I'm sorry. I just don't understand your | |
| 6 You could sample with a greater number at the local | | 6 question. The margin of error is the margin of | | |
| 7 level than at the national. If you're just doing | | 7 error which you calculate at the national level and | | |
| 8 the national sample and seeing what the estimate | | 8 the local level. That's it. | | |
| 9 would be at the local level, there's going to be a | | 9 Q | Would you agree that the Census Bureau, | |
| 10 greater margin of error at the local level than | | 10 for example, when it goes from the national level | | |
| 11 there is at the national level. | | 11 down to smaller geographical areas, its margin of | | |
| 12 Q | So is it more looking at the sample size | 12 error increases? | | |
| 13 at the national level and comparing that, for | | 13 A | Yes. | |
| 14 instance, to the sample size at the county level? | | 14 Q | So is that typical, that when you go from | |
| 15 A I don't understand your question. | | 15 a larger to a smaller geographical area, the margin | | |
| 16 Q | Well, I'm trying to understand your | 16 of error increases? | | |
| 17 explanation. If you have a margin of error at the | | 17 A | There are a number of assumptions in your | |
| 18 national level that's looking at the same population | | 18 statement. It would only increase if you hold the | | |
| 19 segment, let's say, and you have a sample at the | | 19 sample size constant. | | |
| 20 county level that's looking at that same population | | 20 Q | When you say hold the sample size | |
| 21 segment, is the margin of error going to be higher | | 21 constant, what do you mean? | | |
| 22 at the county level compared to the national? | | 22 A | Well, you have three million at the | |

Transcript of William A.V. Clark, Ph.D.

9 (33 to 36)

Conducted on December 22, 2016

| | |
|--|---|
| <p style="text-align: right;">33</p> <p>1 national level, you have some smaller number at the 2 local level, and we've agreed that the margin of error 3 would be greater at the smaller area than at 4 the national.</p> <p>5 Q In attempting to estimate the undocumented 6 population as we've defined it, are there particular 7 challenges to that type of estimate as opposed to 8 estimating another segment of the population?</p> <p>9 A I believe that's true.</p> <p>10 Q What are the difficulties, if you will, in 11 estimating the undocumented population?</p> <p>12 A Well, because they're undocumented, some 13 of them prefer not to be measured in census 14 estimations. So getting an accurate count is more 15 difficult for a population that is less willing, 16 less wanting to be measured.</p> <p>17 Q As a demographer, how do you deal with 18 that?</p> <p>19 A Well, there's a huge literature and it's 20 been discussed at length, and both Dr. Weinberg and 21 I reference some of the important people, Fasel, 22 Warren, Word, all these people, Peter Morrison, who</p> | <p style="text-align: right;">35</p> <p>1 population. Putting margins of error on this is 2 difficult -- a difficult process. Why they actually 3 didn't do it, they don't say in their report. I 4 hasten to add that that material has just come out, 5 and I understand, but this is hearsay, that they may 6 attempt to provide margins of error.</p> <p>7 Q Would you expect the margin of error for 8 the undocumented population to be higher at the 9 state level as opposed to the national estimate from 10 CMS?</p> <p>11 A Would I expect the margin of error to be 12 higher?</p> <p>13 Q Yes, at the state level.</p> <p>14 A Depending on the state, possibly. I don't 15 think it would necessarily be any higher in 16 California, but it's possible.</p> <p>17 Q What factors would you consider in 18 determining whether the margin of error at the state 19 level is higher than the nine percent margin of 20 error at the national level of CMS estimates?</p> <p>21 A I'm not sure I understand where you're 22 going with your question, but it seems to me we've</p> |
| <p style="text-align: right;">34</p> <p>1 have worked on this project of how to estimate the 2 undocumented population, and now the demographers at 3 The Center for Migration Studies have done a very 4 good job of coming up with pretty good estimates of 5 the national and local undocumented populations.</p> <p>6 Q So The Center for Migration Studies has 7 estimated the undocumented population at the 8 national level for the United States, correct?</p> <p>9 A Yes.</p> <p>10 Q Is it also true that CMS, who is -- I'll 11 refer to them as The Center for Migration Studies -- 12 has acknowledged a nine percent margin of error with 13 respect to its estimate of the undocumented 14 population at the national level?</p> <p>15 A That's correct.</p> <p>16 Q Has CMS estimated the margin of error for 17 its estimates at smaller geographical areas such as 18 a state?</p> <p>19 A They have not.</p> <p>20 Q Do you know why they have not done that?</p> <p>21 A I think the -- they say it's difficult 22 enough to try and get estimates of the undocumented</p> | <p style="text-align: right;">36</p> <p>1 talked about how you make estimates already. I 2 don't know what I can add.</p> <p>3 Q Well, you've testified that as you go from 4 a larger to a smaller geographical area, the margin 5 of error increases. My question for you is CMS, as 6 you've testified, acknowledges a nine percent margin 7 of error for its estimate at the national level of 8 undocumented -- the undocumented population. Would 9 you expect the margin of error for the undocumented 10 population estimated by CMS to be higher at the 11 state level?</p> <p>12 A I already answered that question. I said 13 it might be, but as in the case of California, I do 14 not think it would be.</p> <p>15 Q How about the state of Virginia?</p> <p>16 A Virginia has a significant undocumented 17 population. It could well be higher, but we haven't 18 done that estimate. We don't know.</p> <p>19 Q Does CMS -- to what -- what's the smallest 20 geographical area that CMS provides an estimate of 21 the undocumented population?</p> <p>22 A For sub-county units.</p> |

Transcript of William A.V. Clark, Ph.D.

10 (37 to 40)

Conducted on December 22, 2016

37

1 Q Is that what's been referred to in some of
 2 the reports -- and I'll use the acronym -- PUMA,
 3 P-U-M-A?

4 **A Yes, public use microdata area.**

5 Q So that's the smallest geographical area
 6 that CMS will provide an estimate or has provided an
 7 estimate for the undocumented population, correct?

8 **A That is the smallest area to which they
 9 have published estimates.**

10 Q Okay. Are there any other entities that
 11 have estimated the undocumented population at a
 12 geographical area smaller than a PUMA?

13 **A Not that I know of.**

14 Q Do you know why that is?

15 **A It's a very time consuming and tedious
 16 activity, and I don't think the other two major
 17 groups, The Pew Foundation and the -- I can't recall
 18 the name -- the Migration Studies Institute --**

19 Q Yeah.

20 **A -- have done that.**

21 Q In the expert report that you provided in
 22 this case, you adopted the margin of error that the

39

1 interested in making point estimates, and that's
 2 what I was concerned with here. I was concerned
 3 with making a point estimate, the best estimate I
 4 could of the undocumented population in the census
 5 tract, which I did.

6 And interestingly, Dr. Weinberg has a
 7 point estimate that's not that much different from
 8 the one I have. That's a point estimate around
 9 which there is a margin of error. The fact that we
 10 both got a point estimate that's close to one
 11 another gives me certain confidence that that's
 12 about where the proper number lies.

13 We don't know the exact number, we don't
 14 know the true number, but there is a range of error
 15 around those, and I believe that the point estimate
 16 is the way of thinking about this around which there
 17 is a bell-shaped curve. As I point out in my
 18 report, I think that is the important finding, that
 19 we are trying to determine the point estimate.
 20 That's the focus, not the margin of error.

21 Q But doesn't the margin of error tell you
 22 how reliable your point estimate is?

40

1 American Community Survey attached to the estimate
 2 of the total number of Hispanics in the census tract
 3 at issue. Is that correct?

4 **A That's correct.**

5 Q Do you know how ACS determined that margin
 6 of error?

7 **A Certainly when I was reviewing the
 8 document, I could have given you a much more
 9 specific answer. They used the procedures the ACS
 10 uses for all of its margins of error, and they pass
 11 that down to the local unit, and that's their best
 12 estimate of a range for that small population in a
 13 census tract. In this case I think it was 26
 14 percent.**

15 Q All right. At what point does the margin
 16 of error cause you as a demographer to question the
 17 reliability of the estimate?

18 **A Well, I think we have to be clear that the
 19 issue and the importance is -- the point is not the
 20 margin of error. The margin of error gives us a
 21 guide as to what the range might be. But in the
 22 end, all statisticians and demographers are**

1 **A Margin of error is useful in telling us
 2 how well we can rely on it, but if we focus only on
 3 the margin of error, we lose sight of the fact that
 4 we're trying to make a point estimate. There is a
 5 margin of error around it, but as I pointed out in
 6 the rebuttal report, the margin of error is not 101
 7 percent, which would not -- which would be
 8 nonsensical.**

9 **So there is some margin of error. I
 10 believe I appropriately used, failing other
 11 information that was -- had good back-up, I reliably
 12 used the ACS report for all Hispanics to estimate
 13 the undocumented Hispanic population.**

14 Q So let me get back to my question then.
 15 When you have a point estimate and you assign it a
 16 margin of error, at what point does the margin of
 17 error get so high that the estimate is no longer
 18 reliable?

19 **A The estimate is -- has -- the estimate is
 20 the estimate. What we're saying is it is in some
 21 range. You can use other information when you're
 22 actually trying to determine such a difficult**

Transcript of William A.V. Clark, Ph.D.

11 (41 to 44)

Conducted on December 22, 2016

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| | 41 | | 43 |
| 1 situation as this, as well as the margin of error. | | 1 of error was 75 percent? | |
| 2 For example, we know that there are about 80 | | 2 A As I said to you earlier, I don't want to | |
| 3 Hispanic residents in the mobile home park at issue | | 3 go into this kind of to-and-fro where you say is it | |
| 4 in this case. So the number of undocumented is | | 4 this, is it this, is it this, because what I said to | |
| 5 going to be some -- in some range there. | | 5 you was I used a reliable margin of error that was | |
| 6 We know that in trying to make an | | 6 provided by the ACS for all Hispanics within that | |
| 7 estimate, we can use other information such that if | | 7 tract and applied it to my estimate of the | |
| 8 we construct a range for the margin of error which | | 8 undocumented. I believe that's a reliable point | |
| 9 is greater -- which goes to zero, that doesn't make | | 9 estimate. I believe that's a reasonable margin of | |
| 10 sense. So we have to use both statistical sense and | | 10 error. | |
| 11 common sense in trying to evaluate difficult point | | 11 Q I understand your testimony, but I'm | |
| 12 estimates like the undocumented. | | 12 asking a different question. I'm asking you as a | |
| 13 Q So is it your testimony that you can | | 13 demographer, when does the margin of error get to a | |
| 14 disregard the margin of error in determining the | | 14 percentage where you can no longer deem the estimate | |
| 15 reliability of an estimate? | | 15 to be reliable? | |
| 16 A I didn't ever say that. | | 16 A I don't have an answer to that question. | |
| 17 Q Okay. Well, my question then is when does | | 17 Q Why not? | |
| 18 the margin of error get to a point where as a | | 18 A It's not a question I've ever spent the | |
| 19 demographer you cannot rely on the estimate? | | 19 time thinking about to be able to give you a | |
| 20 A The only way to answer that question would | | 20 reasoned answer. | |
| 21 be to have a specific situation, and I -- we don't | | 21 Q Why does the Census Bureau publish margins | |
| 22 have a specific situation that I can give you to | | 22 of error with its statistics and estimates? | |
| | 42 | | 44 |
| 1 answer your question. There is no general answer to | | 1 A Because it wants us to reflect on the | |
| 2 the question when is the margin of error unreliable. | | 2 value of the point estimate and to make sure that we | |
| 3 That's the question you're asking. | | 3 realize that there is variation in those point | |
| 4 Q So your testimony is you could have a 100 | | 4 estimates. But they also say, having sat on a | |
| 5 percent margin of error and still have a reliable | | 5 number of the census commissions, that the point | |
| 6 estimate. Is that correct? | | 6 estimate is still their best estimate, otherwise | |
| 7 A No, I didn't testify to that. | | 7 they wouldn't publish it. | |
| 8 Q Okay. Well, what number below a 100 | | 8 Q So let me ask this again: Can you ignore | |
| 9 percent margin of error would you as a demographer | | 9 the margin of error in determining the reliability | |
| 10 say the estimate is no longer reliable? | | 10 of a point estimate? | |
| 11 A I wouldn't use that language. And what I | | 11 A I never said that. | |
| 12 did in my report was take the ACS estimate and use | | 12 Q Well, since you have to take the margin of | |
| 13 that to create a range. I think that's reliable. I | | 13 error into account then in determining the | |
| 14 don't have to make decisions about what might | | 14 reliability of a point estimate, when does the | |
| 15 happen. I actually used an ACS figure and applied | | 15 margin of error get to a point where you cannot deem | |
| 16 it to my point estimate to give a range of around -- | | 16 the estimate to be reliable? | |
| 17 I don't recall exactly -- 230 to 320. | | 17 MR. KIM: Objection, asked and answered. | |
| 18 Q Let me ask it this way: If the ACS margin | | 18 A We've been over that several times. I've | |
| 19 of error was 50 percent rather than 26 percent, | | 19 given you my answer, that I've used the ACS margin | |
| 20 would your estimate still be reliable? | | 20 of error. The question you're asking is a | |
| 21 A Yes. | | 21 philosophical question, and as I said to you | |
| 22 Q Would it still be reliable if the margin | | 22 earlier, I haven't reflected on whether there's an | |

Transcript of William A.V. Clark, Ph.D.

12 (45 to 48)

Conducted on December 22, 2016

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| <p style="text-align: right;">45</p> <p>1 answer to that question.</p> <p>2 BY MR. DINGMAN:</p> <p>3 Q What's the highest margin of error you've 4 used in presenting an estimate?</p> <p>5 A I can't recall specific examples.</p> <p>6 Q With respect to the margin of error that 7 you used in your report, the 26 percent was the 8 margin of error for Hispanics in the census tract at 9 issue, correct?</p> <p>10 A That's correct.</p> <p>11 Q Why didn't you adjust that margin of error 12 up when you estimated the undocumented population?</p> <p>13 A I didn't understand your question.</p> <p>14 Q Why didn't you increase the margin of 15 error when you attempted to estimate the 16 undocumented population in your report?</p> <p>17 A I didn't adjust it up. I used 26 percent.</p> <p>18 Q Well, that's my question. You testified 19 that it's more difficult to estimate the 20 undocumented population, so why didn't you use a 21 higher margin of error for that estimate?</p> <p>22 A I believe the ACS is the most reliable</p> | <p style="text-align: right;">47</p> <p>1 A Correct.</p> <p>2 Q So shouldn't the margin of error go up?</p> <p>3 A If you had some basis to change it, you</p> <p>4 could make that adjustment. That would increase the</p> <p>5 number.</p> <p>6 But I make two points in response to you: 7 We have another statistician who has also provided a 8 point estimate, without a range of error, I might 9 add. So we don't know what the range of error of 10 Dr. Weinberg's point is. But both point estimates 11 are within a relatively narrow range. Whether the 12 margin of error is actually 26 percent, we can only 13 rely on the fact that that's our best information at 14 this point.</p> <p>15 Q Well, you would agree, Professor Clark, 16 that Mr. Weinberg believes that your estimate is 17 completely unreliable because of the margin of 18 error, correct?</p> <p>19 A He says that in his report.</p> <p>20 Q So the issue isn't so much the point 21 estimate, but whether it's sufficiently reliable, 22 correct?</p> |
| <p style="text-align: right;">46</p> <p>1 piece of information we have about Hispanics and</p> <p>2 that I used to apply to my undocumented estimate so</p> <p>3 that I could give you a range. In fact, I believe</p> <p>4 my point estimate is about correct.</p> <p>5 Q Well, the ACS 26 percent margin of error 6 has nothing to do with the undocumented population, 7 correct?</p> <p>8 A It does to the extent that undocumented</p> <p>9 are -- the undocumented are members of that Hispanic</p> <p>10 population.</p> <p>11 Q But the ACS doesn't differentiate, it 12 simply has an estimate of the total Hispanic 13 population, right?</p> <p>14 A That's correct.</p> <p>15 Q And that had a margin of error of 26 16 percent, correct?</p> <p>17 A Correct.</p> <p>18 Q And you attempted to estimate a sub-group 19 of undocumented Hispanics, correct?</p> <p>20 A Yes.</p> <p>21 Q Which is less certain, as you've already 22 testified, correct?</p> | <p style="text-align: right;">48</p> <p>1 A No. He made a point estimate that is very</p> <p>2 similar to my point estimate. He failed to provide</p> <p>3 a range of error. He didn't go through a margin of</p> <p>4 error analysis. All he did was use some language,</p> <p>5 which I must admit I find difficult to understand,</p> <p>6 about 800 percent and then 101 percent and</p> <p>7 one-eighth, but he did not provide a margin of</p> <p>8 error. But he did provide a point estimate, both of</p> <p>9 which are well within my margin of error using the</p> <p>10 ACS data.</p> <p>11 Q But you would agree, wouldn't you, 12 Professor Clark, that somebody can provide you a 13 point estimate on anything, but you as a demographer 14 have to determine whether it's reliable, right?</p> <p>15 A Well, I don't provide estimates on just</p> <p>16 anything. As a demographer faced with a specific</p> <p>17 question, I do my best estimate for that procedure.</p> <p>18 That's what I did in this case and provided a point</p> <p>19 estimate that about 300 Hispanics in that tract are</p> <p>20 undocumented.</p> <p>21 Q But you have to demonstrate the 22 reliability of that estimate, right?</p> |

Transcript of William A.V. Clark, Ph.D.

13 (49 to 52)

Conducted on December 22, 2016

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| | 49 | | 51 |
| 1 A I did. I provided a range of error, and | | 1 Q Well, if you don't know, aren't you | |
| 2 the fact that another statistician came in with a | | 2 speculating on the margin of error at that level? | |
| 3 value within that range of error provides me with a | | 3 A No. I chose to use a point estimate -- we | |
| 4 great deal of confidence that I'm pretty right. | | 4 keep coming back to the same point -- and I used the | |
| 5 Q Except that his error was 809 percent and | | 5 reliable ACS measure of the range of error for all | |
| 6 yours was 26 percent, right? | | 6 Hispanics given that we know there are a large | |
| 7 A No, that's not correct. He did not | | 7 number of Hispanics in Virginia and in Fairfax | |
| 8 provide a range of error for his point estimate. He | | 8 County, and so I have a certain amount of confidence | |
| 9 did not provide a margin of error for his point | | 9 in my results. | |
| 10 estimate, and the 800, 900 percent is not | | 10 Q But the ACS margin of error that you used | |
| 11 sufficiently explained in the report for me to | | 11 was not an estimate of the undocumented population, | |
| 12 understand. | | 12 correct? | |
| 13 Q Well, isn't the real issue between you and | | 13 A I think you stated that at least twice | |
| 14 Dr. Weinberg is that you think your 26 percent | | 14 now. | |
| 15 margin of error makes your point estimate reliable | | 15 Q Okay. | |
| 16 and he believes it's not reliable because his margin | | 16 A That's correct. | |
| 17 of error is 809 percent? | | 17 Q Then why is it a valid margin of error for | |
| 18 A He doesn't provide a margin of error. He | | 18 the undocumented population? | |
| 19 provides some statistics about percentages. There | | 19 A Because the undocumented population are a | |
| 20 is no margin of error in Dr. Weinberg's report in | | 20 proportion of the total Hispanic population, and | |
| 21 any form. He doesn't even calculate a margin of | | 21 because it is probably the best margin of error | |
| 22 error with his analysis. He provides no margin of | | 22 we're going to reliably have, I used that around my | |
| | 50 | | 52 |
| 1 error. | | 1 point estimate. And I remind you that Dr. Weinberg | |
| 2 Q You've read his report? | | 2 has a point estimate very close to mine, so | |
| 3 A Yes. | | 3 therefore it suggests that the number is reliably in | |
| 4 Q Did you read the tables where he | | 4 that range. | |
| 5 calculated the margin of error? | | 5 Q Again, I know you've read Dr. Weinberg's | |
| 6 A I did. | | 6 report. Doesn't he expressly say that the point | |
| 7 Q So how are you saying that he did not | | 7 estimate is completely unreliable? | |
| 8 estimate a margin of error? | | 8 A He says that about my point estimate. | |
| 9 A There's no margin of error around his | | 9 Q All right. So the disagreement isn't the | |
| 10 point estimate. That's what I'm saying. | | 10 point estimate derived from your methodology, it's | |
| 11 Q Well, then what margin of error do you | | 11 whether it's sufficiently reliable, right? | |
| 12 believe he set forth in his report? | | 12 A I would have to go back and look at his | |
| 13 A I don't have his report in front of me, so | | 13 report again, but I think we don't disagree about | |
| 14 I can't recall it. | | 14 the point estimate. | |
| 15 Q With the CMS data having a nine percent | | 15 Q But there's a significant disagreement | |
| 16 margin of error at the national level, what margin | | 16 about the reliability of the estimate, right? | |
| 17 of error would an estimate of the undocumented | | 17 A There is a disagreement about the | |
| 18 population be at the census tract level? | | 18 appropriate margin of error. | |
| 19 A That hasn't been estimated. | | 19 Q Isn't that questioning the reliability of | |
| 20 Q Wouldn't it be exponentially higher? | | 20 the estimate? | |
| 21 A We do not know. It has not been | | 21 A Well, to the extent that the results are | |
| 22 estimated. You're speculating. Sorry. | | 22 very similar, as I keep saying, I think it shows | |

Transcript of William A.V. Clark, Ph.D.

14 (53 to 56)

Conducted on December 22, 2016

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| <p style="text-align: right;">53</p> <p>1 some reliability in the estimate, just the opposite</p> <p>2 of what Dr. Weinberg is saying.</p> <p>3 Q Professor Clark, when were you first</p> <p>4 contacted about this case?</p> <p>5 A Around November 20, the 22nd.</p> <p>6 Q Of this year?</p> <p>7 A Yes.</p> <p>8 Q Who contacted you at that time?</p> <p>9 A I believe it was Mr. Kim and one or two</p> <p>10 other associates or senior members of the Quinn</p> <p>11 firm. There was a conference call.</p> <p>12 Q Who was involved in that call besides Mr.</p> <p>13 Kim?</p> <p>14 A I'm sorry. I don't recall the names. I</p> <p>15 wrote them down, but I don't have them in front of</p> <p>16 me.</p> <p>17 Q Okay. When you were first retained in</p> <p>18 this case, were you provided any documents to</p> <p>19 review?</p> <p>20 A Eventually I was given the initial</p> <p>21 complaint and response, and I think the judge's</p> <p>22 ruling.</p> | <p style="text-align: right;">55</p> <p>1 whether or not residents in the Waples Mobile Home</p> <p>2 Park were being affected by this particular policy</p> <p>3 of having to show documentation of their residency</p> <p>4 and whether this -- whether there was a disparate</p> <p>5 impact on Hispanics, and they sent me their initial</p> <p>6 filing which was focused on the state of Virginia.</p> <p>7 Q And what did you do to then prepare your</p> <p>8 analysis and ultimate report in this case?</p> <p>9 A Initially I collected census data on</p> <p>10 populations in Virginia, Fairfax County, Fairfax</p> <p>11 City, and the census tract once I determined where</p> <p>12 the mobile home park was located.</p> <p>13 Q What did you do next?</p> <p>14 A I did the analysis on whether there was a</p> <p>15 disparate impact on Hispanics, in other words, were</p> <p>16 Hispanics likely to be disparate -- have a disparate</p> <p>17 impact on this policy.</p> <p>18 At that point I did not have data on the</p> <p>19 occupancy of the mobile home park itself, which to</p> <p>20 me was a central issue about whether you could</p> <p>21 measure a disparate impact, but I could see whether</p> <p>22 or not such a policy had disparate impact if it</p> |
| <p>54</p> <p>1 Q Professor Clark, I'd like to go back to --</p> <p>2 I asked you when you were first contacted in the</p> <p>3 case, and you testified November of 2016. Your</p> <p>4 report is actually dated in October. So does that</p> <p>5 help refresh your memory of when you may have first</p> <p>6 been contacted in the case?</p> <p>7 A Maybe it was October. The report was</p> <p>8 dated October 28?</p> <p>9 Q Yes, sir.</p> <p>10 A Maybe it was September 22. Let me see if</p> <p>11 I can -- I'm sorry, I just don't recall, but it was</p> <p>12 in the fall.</p> <p>13 Q Okay.</p> <p>14 A I could go back and look at my e-mail log,</p> <p>15 but I don't recall. Sorry.</p> <p>16 Q Okay. I just wanted to clarify that</p> <p>17 because I know that the report was October. So</p> <p>18 sometime in the fall of this year, you were</p> <p>19 contacted about this case, correct?</p> <p>20 A Correct. Probably late September.</p> <p>21 Q Okay. What were you asked to do?</p> <p>22 A I was asked to look at the issue of</p> | <p style="text-align: right;">56</p> <p>1 applied to Hispanics at the state, county, and local</p> <p>2 level.</p> <p>3 Q Did anyone assist you in preparing your</p> <p>4 report in this case?</p> <p>5 A No.</p> <p>6 Q Did anyone assist you in performing the</p> <p>7 research that you've discussed?</p> <p>8 A No.</p> <p>9 Q Have you been retained in any prior case</p> <p>10 or any other engagement by the law firm of Quinn</p> <p>11 Emanuel?</p> <p>12 A No.</p> <p>13 Q All right.</p> <p>14 MR. DINGMAN: I'm going to ask that the --</p> <p>15 and Karen should have this -- that your expert</p> <p>16 report be identified as Exhibit 1 to the deposition,</p> <p>17 and Karen can provide a copy of that to you.</p> <p>18 (Deposition Exhibit No. 1 was marked for</p> <p>19 identification and was retained by counsel.)</p> <p>20 BY MR. DINGMAN:</p> <p>21 Q Professor Clark, I'd like you to take a</p> <p>22 look at Exhibit 1, and can you confirm this is the</p> |

Transcript of William A.V. Clark, Ph.D.

15 (57 to 60)

Conducted on December 22, 2016

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| 1 expert report that you prepared for this case? | | 1 that was part of the rule, they wouldn't have been | |
| 2 A It is. | | 2 able to be a resident. But I didn't investigate | |
| 3 Q One of the terms in there in the report | | 3 that specific issue. | |
| 4 refers to "applied demographic analysis." Can you | | 4 Q Well, what policy did you investigate to | |
| 5 just describe for me what that is. | | 5 determine whether it had a disparate impact on | |
| 6 A Where is the term you're using from? | | 6 Hispanic families at the mobile home park? | |
| 7 Q Look to the first page under "The | | 7 A The question was if you are applying a | |
| 8 Question: A question which routinely emerges in | | 8 policy to one group versus another, it can have a | |
| 9 demographic analysis." Well, let me ask it this | | 9 disparate impact if it's affecting more than -- more | |
| 10 way: Are you familiar with the term "applied | | 10 of one group than another, and it was essentially | |
| 11 demographic analysis?" | | 11 because many undocumenteds are Hispanic, it was | |
| 12 A Yes. | | 12 having an impact, a disparate impact on Hispanics. | |
| 13 Q And what does that term mean to you? | | 13 Q But that's sort of my question. The issue | |
| 14 A It's come to mean the approach that | | 14 in the policy that the plaintiffs assert claim to | |
| 15 demographers take when they use their tools to look | | 15 have some sort of disparate impact was the | |
| 16 at specific local issues, or even national issues, | | 16 requirement to prove legal status in the United | |
| 17 when they're applying demographic tools to local | | 17 States, right? | |
| 18 problems. | | 18 A That's the assertion in the plaintiffs' | |
| 19 Q What demographic tools did you apply to | | 19 case, yes. | |
| 20 this report? | | 20 Q If you look under paragraph -- section two | |
| 21 A Very simple statistical tools of counting, | | 21 that's entitled Findings and Opinions, you state in | |
| 22 of creating tables, of calculating proportions, and | | 22 the last sentence, "Any policy focused specifically | |
| | 58 | | 60 |
| 1 applying estimating techniques. | | 1 on the sub-area defined by Tract 4406 will have a | |
| 2 Q If you'll take a look at page 1 of your | | 2 disproportionate impact on the Hispanic population." | |
| 3 report, in the first section called "The Question," | | 3 What's the basis for that statement? | |
| 4 you state, "Does the policy requiring proof of | | 4 A Which finding are you citing? | |
| 5 citizenship in a mobile home park disproportionately | | 5 Q It's 2a on page 1. | |
| 6 impact Hispanics families?" Was it your | | 6 A 2a? | |
| 7 understanding that the claim of disparate impact was | | 7 Q Yes, sir. It's the last sentence in 2a. | |
| 8 the inability to show legal status in the United | | 8 A Well, if any policy focused specifically | |
| 9 States? | | 9 on a part of Tract 4406, it's not applied to the | |
| 10 A My understanding was whether or not a | | 10 whole tract, and because they're mostly Hispanics in | |
| 11 policy that had the impact -- had the implication of | | 11 that area, it's going to have a disproportionate | |
| 12 impacting a particular ethnic group was a disparate | | 12 impact. | |
| 13 impact. Initially, at least, and when I did this | | 13 Q Well, wouldn't you have to know what the | |
| 14 report, it was not focused on whether or not they | | 14 policy is before you make that statement? | |
| 15 showed documentation. | | 15 A No. Any policy that was focused on that | |
| 16 Q Well, was it your belief that proof of | | 16 sub-area that had an impact on the Hispanic | |
| 17 citizenship was required for someone to apply to | | 17 population specifically would be disparate. | |
| 18 live at the mobile home park? | | 18 Q So any application, policy, or process, | |
| 19 A Well, my understanding is that because | | 19 regardless of what it says, would have a disparate | |
| 20 people were already living there, they couldn't have | | 20 impact on the Hispanic population. Is that what | |
| 21 used that as an application rule because they | | 21 you're saying? | |
| 22 wouldn't be there, because when they applied, if | | 22 A The policy is focused -- the policy that | |

Transcript of William A.V. Clark, Ph.D.

16 (61 to 64)

Conducted on December 22, 2016

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| 1 we're talking about, which is the policy about 2 requiring proof of citizenship which is listed in 3 the first paragraph, would have an impact on 4 Hispanics disproportionately. | | 1 If you apply a policy that has an impact on one 2 group but doesn't on another, that's the core of the 3 disparate impact. So the fact that most 4 undocumented immigrants are Hispanic means that it's 5 a disparate impact if you apply a -- that particular 6 policy. | |
| 5 Q But here you're saying any policy would 6 have a disparate impact, right? | | 7 Q So your testimony is the disparate impact 8 is due to the fact that there's a larger group of 9 Hispanics in the undocumented population than some 10 other race or ethnic group? | |
| 7 A I think that statement refers to the 8 question that's posed above. But in fact the tract 9 has a very high proportion of Hispanics compared to 10 non-Hispanics, and any policy that was -- had the 11 effect of targeting Hispanics, any policy would be 12 disproportionate. | | 11 A I believe the report says that, yes. It 12 compares them with Asians and with others. | |
| 13 Q So your statement any policy focused in 14 this Tract 4406 would disproportionately impact 15 Hispanics is not correct. It would have to be 16 something that would target them. Is that your 17 testimony? | | 13 Q I'd like you to now take a look, Professor 14 Clark, at section 2d. We're still on page 1. And 15 at the last line on that page, the sentence starts 16 "Using the best available estimates," carrying over 17 to page 2, "somewhat greater than 30 percent of the 18 Hispanic population is likely to be undocumented." 19 What were the best available estimates that you 20 refer to there? | |
| 18 A It would have to be related to being 19 Hispanic because that's the disparate impact. | | 21 A Well, that's discussed further in the 22 report. Those are the estimates of The Center for | |
| 20 Q Well, if someone can't comply with the 21 policy because they're in the United States 22 illegally, does that have anything to do with them | 62 | | 64 |
| 1 being Hispanic? | | 1 Migration Studies, but confirmed by the studies from 2 the Pew Research Center and from the Migration 3 Studies Institute. | |
| 2 A You can be in the United States without 3 documents whether or not you're Hispanic. | | 4 Q But the CMS doesn't have any estimate of 5 the undocumented population at the tract level, 6 correct? | |
| 4 Q Right. So whether someone is here 5 illegally or not has nothing to do with whether 6 they're Hispanic or not, right? | | 7 A That's correct. | |
| 7 A It so happens that a very large proportion 8 of the undocumented are Hispanic. | | 8 Q So then you did not rely upon CMS data for 9 your ultimate conclusion in this case, right? | |
| 9 Q Whether that's true or not, my question is 10 whether you're in the United States legally or not 11 has nothing to do with whether you're Hispanic or 12 some other race, correct? | | 10 A No, that's not correct. I used the CMS 11 data from the PUMA to estimate what the undocumented 12 population is in the tract, that tract as part of 13 the PUMA. | |
| 13 A You can be of different races and be in 14 the U.S. without documentation, correct. | | 14 Q What's the population size in the PUMA 15 that you relied upon? | |
| 15 Q So a policy that asks for determination of 16 legal status isn't directed or targeting Hispanics, 17 right? | | 16 A I don't have it in front of me, but it's a 17 large number. | |
| 18 A Unfortunately, because many Hispanics are 19 in fact undocumented, it has the impact of being a 20 disparate outcome because there are many -- there 21 are very few whites that are undocumented. There 22 are some, of course. So it's a disparate impact. | | 18 Q Well over 100,000, correct? | |
| | | 19 A I believe so. | |
| | | 20 Q And the census Tract 4406, that population 21 is less than 4,000, correct? | |
| | | 22 A Yes. | |

Transcript of William A.V. Clark, Ph.D.

17 (65 to 68)

Conducted on December 22, 2016

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| <p style="text-align: right;">65</p> <p>1 Q And you made no adjustment between the CMS 2 estimate at the PUMA level and the tract level in 3 your report, correct?</p> <p>4 A Yes. I took the data from the PUMA level 5 and used that to make an estimate at the tract 6 level. I used the proportions at the PUMA level and 7 applied them to the tract level.</p> <p>8 Q But as we discussed before, as you go from 9 a larger -- in this instance more than 100,000 -- 10 population in the PUMA to less than 4,000 in the 11 tract, shouldn't the margin of error or should there 12 be some adjustment because you're going from a 13 larger to a smaller area?</p> <p>14 A We went around that at some length. I 15 gave you a range of the estimate for the 16 undocumented population at the tract level based on 17 the material I used from the PUMA, and what is 18 notable is that the numbers pan out in the way that 19 the Fairfax County and the tract values are about 20 the same. And so if we know that we can have a fair 21 amount of reliability from the Fairfax County data 22 and we're getting similar kinds of results at the</p> | <p style="text-align: right;">67</p> <p>1 A I looked at the census tracts that made up 2 the PUMA. There are many of them like Tract 4406.</p> <p>3 Q So is it your testimony that Tract 4406 is 4 similar in its demographic make-up as other census 5 tracts in the PUMA?</p> <p>6 A I did not do that analysis.</p> <p>7 Q Continuing on page 2, I'd like you to 8 focus now on subparagraph F. The last sentence 9 states, "As a disproportionate number of Hispanics 10 are not citizens, a disproportionate number of 11 residents will be impacted by the park's leaseholder 12 policy." When you make this statement, "a 13 disproportionate number of Hispanics are not 14 citizens," who are you comparing that group to?</p> <p>15 A Disproportionate to other groups.</p> <p>16 Q Which other groups?</p> <p>17 A Well, after -- I was just using 18 non-Hispanics as the other group in that statement, 19 but in the rebuttal report when Dr. Weinberg raised 20 the issue of not estimating it for Asians, I redid 21 the analysis so that we looked at Asians and other 22 populations, and the disproportionate impact</p> |
| <p>1 tract level, we feel reasonably confident of those 2 results.</p> <p>3 Q What was your basis for assuming that the 4 CMS estimate at the PUMA level would be the same for 5 the census tract level?</p> <p>6 A The census tract is part of the PUMA. The 7 counterfactual would be that the tract is very 8 different from the rest of the PUMA, and there's no 9 evidence that it is. It's like the PUMA as a whole. 10 Therefore, we apply the same proportion at the PUMA 11 level down to the tract level. That's a standard 12 procedure in demography, that you use a proportion 13 at the higher level and a proportion down at the 14 lower levels.</p> <p>15 Q Well, isn't it true that the PUMA level 16 data could be dispersed throughout various census 17 tracts that are encompassed in the PUMA?</p> <p>18 A It is true that there's variation across 19 the PUMA, but there's no evidence that the PUMA is 20 so variable that it would make the estimating 21 procedure improper.</p> <p>22 Q How did you determine that in this case?</p> | <p style="text-align: right;">66</p> <p>1 analysis is still true, but it's a slightly lower -- 2 it's in fact considerably lower for not-Asians, 3 non-Hispanics.</p> <p>4 Q So in this statement, "a disproportionate 5 number of Hispanics are not citizens," you're 6 comparing Hispanics -- I mean, who are you comparing 7 Hispanics to to make that statement?</p> <p>8 A Non-Hispanics.</p> <p>9 Q Who are also non-citizens?</p> <p>10 A If you look at non-Hispanics who are not 11 citizens, Hispanics are more likely to have been 12 non-citizens than are non-Hispanics.</p> <p>13 Q Moving on to the next section, which is 14 section three entitled Data and Resources, in the 15 first photograph, the second sentence you state, "I 16 have carried out specific demographic studies of 17 Fairfax County and the tracts within the county." 18 What specific studies are you referring to there?</p> <p>19 A The studies in the report.</p> <p>20 Q So whatever studies you did of Fairfax 21 County, they're in your report that's Exhibit 1. Is 22 that correct?</p> |

Transcript of William A.V. Clark, Ph.D.

18 (69 to 72)

Conducted on December 22, 2016

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| 1 A And whatever is in the response to Dr. | | 1 did not take into account the undocumented Asian | |
| 2 Weinberg, yes. | | 2 population, correct? | |
| 3 MR. DINGMAN: Why don't we take a short | | 3 A That's correct. | |
| 4 break and let me reorganize. I think we can finish | | 4 Q Why not? | |
| 5 up hopefully in the next 20, 30 minutes. | | 5 A As I said in my rebuttal report, the Asian | |
| 6 THE WITNESS: Okay. | | 6 undocumented population as I understood it were not | |
| 7 MR. KIM: Sounds good. | | 7 part of the -- were not at issue in this litigation, | |
| 8 (A brief recess was had from 5:34 p.m. to | | 8 and I did not do the calculations for them. | |
| 9 5:42 p.m.) | | 9 Q Well, how could you ignore them when you | |
| 10 MR. DINGMAN: Are we set to resume? | | 10 make your statement that Latinos are nearly seven | |
| 11 THE WITNESS: Yes. | | 11 times more likely to be undocumented than other | |
| 12 MR. DINGMAN: Okay. | | 12 groups? | |
| 13 BY MR. DINGMAN: | | 13 A Well, the statement is correct, but the | |
| 14 Q Professor Clark, I'd like you to turn to | | 14 other groups, it turns out, did have undocumented | |
| 15 page 5 of your report. In the last paragraph before | | 15 populations, and that number needed to be | |
| 16 the section with the heading Geography, in the first | | 16 reevaluated when it was pointed out to me that there | |
| 17 sentence you state, "In sum, comparing the | | 17 was a significant Asian undocumented population, | |
| 18 undocumented population in Fairfax County and Census | | 18 which I did in the second report. | |
| 19 Tract 4406 to other groups at the county and the | | 19 Q Were you aware of that undocumented Asian | |
| 20 census tract level reveals a disparate impact at | | 20 population when you wrote your initial report? | |
| 21 both levels." What are the other groups at the | | 21 A I was not aware of the size of the | |
| 22 county that you refer to in that statement? | | 22 undocumented Asian population. I knew there was an | |
| | 70 | | 72 |
| 1 A Non-Hispanic populations. | | 1 Asian undocumented population. I had not focused on | |
| 2 Q And why do you say there's a disparate | | 2 that because I was focusing on the Hispanic issue, | |
| 3 impact at both levels? | | 3 and I had recently worked on the Hispanic | |
| 4 A At both county and census tract levels. | | 4 composition of the Waples Mobile Home Park, and the | |
| 5 Q So the other groups are just | | 5 Asian composition of the home -- mobile home park | |
| 6 non-Hispanics, or are they the non-Hispanic | | 6 was very small. | |
| 7 undocumented population that you're referring to | | 7 Q But you agree to do this comparison, you | |
| 8 here? | | 8 needed to take into account the size of the | |
| 9 A Non-Hispanic populations. | | 9 undocumented Asian population in the census tract, | |
| 10 Q So that statement has nothing to do with | | 10 correct? | |
| 11 whether they're documented or not? | | 11 A That's what I did in the second report, | |
| 12 A No. I misspoke. That's drawn from the | | 12 yes. | |
| 13 table before where in fact I produce an undocumented | | 13 MR. DINGMAN: Let's mark as Exhibit 2 the | |
| 14 ratio for the county in the tract of 30.7 and 31.4. | | 14 expert reply report for Professor Clark. | |
| 15 Q So I'm still trying to understand the | | 15 (Deposition Exhibit No. 2 was marked for | |
| 16 statement here. You said you compared the | | 16 identification and was retained by counsel.) | |
| 17 undocumented population in Fairfax County to other | | 17 BY MR. DINGMAN: | |
| 18 groups at the county. So who were the other groups | | 18 Q Professor Clark, if you could look at | |
| 19 at the county? The documented population? | | 19 Exhibit 2 and confirm that this is your reply report | |
| 20 A No, the undocumented non-Hispanic | | 20 in this case. | |
| 21 population. | | 21 A It is. | |
| 22 Q Okay. And when you did this report, you | | 22 Q Okay. As part of your report, you | |

Transcript of William A.V. Clark, Ph.D.

19 (73 to 76)

Conducted on December 22, 2016

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| <p>73</p> <p>1 reviewed the expert report provided by Daniel 2 Weinberg, correct?</p> <p>3 A Yes.</p> <p>4 Q Prior to this case, did you know Mr. 5 Weinberg?</p> <p>6 A Yes.</p> <p>7 Q In what capacity?</p> <p>8 A A long time ago Dr. Weinberg submitted a 9 chapter to a book that I edited, and over the years 10 I had occasional exchanges with him. I gave a 11 lecture at the Census Bureau and I met him there. 12 I've seen him at and talked to him at national 13 population meetings.</p> <p>14 Q What's your opinion of Dr. Weinberg?</p> <p>15 A He's a very competent demographer and 16 statistician.</p> <p>17 Q In reviewing his report, did you have any 18 issue with the methodology that he used to come up 19 with the MOE that he determined?</p> <p>20 A As I explained to you earlier, I found it 21 difficult to understand his 101 percent MOE. He 22 made numerous assumptions that I could not find any</p> | <p>75</p> <p>1 undocumented Hispanics.</p> <p>2 Q If you would look at page 1 of your reply 3 report, under the heading Point Estimates and the 4 Margin of Error, in the second paragraph you state 5 that Dr. Weinberg asserts that the margin of error 6 should be 101 percent, correct?</p> <p>7 A I say that, yes.</p> <p>8 Q But there's nothing in your reply report 9 that challenges how he came to that conclusion, 10 correct?</p> <p>11 A I explained to you earlier that I could 12 not understand how he came to that conclusion.</p> <p>13 Q Well, do you even state in your reply 14 report that his conclusion is wrong?</p> <p>15 A I can't say whether it is right or wrong 16 because I can't interpret it.</p> <p>17 Q Why can you not interpret it?</p> <p>18 A The presentation is -- does not have 19 clarity.</p> <p>20 Q And what do you contend to be the lack of 21 clarity in the presentation of Dr. Weinberg's 22 report?</p> |
| <p>74</p> <p>1 basis for, and so I found that I couldn't agree with 2 that.</p> <p>3 Q What were the assumptions that you believe 4 he made that you could not account for?</p> <p>5 A They're in his report, and I can't recall 6 them specifically, but he did, as he says, make a 7 number of assumptions to come up with 101 percent 8 error. There's a paragraph that begins "I make the 9 following assumptions." I cannot recall them for 10 you specifically now.</p> <p>11 Q Okay. If you'll take a look at your 12 expert reply report, did you identify in there the 13 assumptions that you believe Dr. Weinberg made that 14 were not supportable?</p> <p>15 A I don't believe I went through them. I 16 went through the report and pointed out, as we've 17 already discussed, that he got a point estimate 18 similar to mine. He didn't calculate a range -- a 19 margin of error using 101 percent which would have 20 produced a zero to 602 range, and I suggested that 21 that analysis obscures the reasonableness of a 22 result, which is a point estimate of about 300</p> | <p>76</p> <p>1 A I've said several times I don't understand 2 what his assumptions were or how he went from 800 3 percent and one-eighth of that to 101 percent. Why 4 one-eighth? There was no discussion of that. So I 5 could not understand what he did.</p> <p>6 Q So do you then have no opinion as to 7 whether his calculations are correct or not?</p> <p>8 A I believe his use of 101 percent does not 9 come up to the standard of a reasonable result. 10 Clearly there is no point estimate of zero in the 11 census tract, so the range he's proposing is 12 nonsensical as a margin of error.</p> <p>13 Q Well, is it that the margin of error 14 demonstrates that the estimate is unreliable?</p> <p>15 A I believe that's an incorrect statement.</p> <p>16 Q Why do you believe that's an incorrect 17 statement?</p> <p>18 A Because I provided an estimate using the 19 ACS margin of error, which I think is a reasonable 20 interpretation applied to the Hispanic -- from the 21 Hispanic population applied to produce an 22 undocumented population.</p> |

Transcript of William A.V. Clark, Ph.D.

20 (77 to 80)

Conducted on December 22, 2016

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| 1 Q | In his calculation, Dr. Weinberg took into account the CMS margin of error at the national level of nine percent, correct? | 1 lie. We've already established the point estimate of undocumented Hispanics in the census tract is not zero, but that's what Dr. Weinberg is claiming. | |
| 4 A | And then he multiplied it up. | 4 Q | What Dr. -- |
| 5 Q | Right. But he took into account the nine percent margin of error that CMS admits to with respect to its national estimates, correct? | 5 A | So that makes his result nonsensical. |
| 8 A | Yes. | 6 Q | Isn't he demonstrating that the estimate has no reliability with his margin of error? |
| 9 Q | You ignored that, correct? | 8 A | No, no. He's demonstrating that you could get a point estimate of zero under his discussion. |
| 10 A | I didn't ignore it. I said that this is 11 the best estimate we have. There is no margin of 12 error provided by CMS. He made a number of 13 assumptions about that for which I can find no 14 basis. | 10 | That's not possible. |
| 15 Q | Well, isn't his assumption pretty straightforward? He started at a national margin of error and took that down to a census tract level? | 11 Q | Let me ask you this question. |
| 18 A | Not if you just multiplied up by some 19 number, which has no basis that I can find. | 12 A | The margin of error -- |
| 20 Q | So you don't recall that his basis was looking at the number of foreign-born nationals from the census data? | 13 Q | Go ahead. |
| 1 | 78 | 14 A | The margin of error includes all point 15 estimates. |
| 2 A | He uses that, but that's -- but there's no justification for it. And we're getting away from 3 the point. You're focusing on margins of error, and 4 I keep needing to remind you that we do have a point 5 estimate here. That's the issue. There is an issue 6 of what the margin of error should be, but the point 7 estimate, which both Dr. Weinberg and I got, is a 8 good estimate for the number of undocumented in the 9 census tract. And that I think is the end of the 10 discussion, really, because we've got a point 11 estimate. | 16 Q | As a demographer, can you accept an estimate as reliable without knowing the margin of error associated with the estimate? |
| 12 | Perhaps the margin of error should be larger, but the margin of error only gives us a sense of where the point estimate lies. Think of it again, as I said, as a bell curve. Multiple samples will produce most of the results near the point estimate. | 19 A | You can accept the point estimate. There 20 is a margin of error around it. You may not know 21 exactly what the margin of error is. You can still 22 accept the point estimate. We accept them all the |
| 18 Q | But in order to determine whether a point estimate is reliable, you have to consider the margin of error, correct? | 1 | time. Demographers accept estimates of income, of 2 the proportion of women with levels of fertility. 3 We accept point estimates all the time, both 4 professionally and in the lay public. We don't 5 always have point -- we don't -- in fact, we often 6 do not have margins of error, but we accept them. |
| 21 A | You can consider the margin of error. It 22 gives you a range in which the point estimate could | 7 Q | Why does the Census Bureau attach a margin of error to all of its estimates if it's unnecessary to determine the reliability of the estimate? |
| | | 10 A | I didn't say that. The Census Bureau in 11 its great care with lots of mathematical 12 statisticians is concerned to give a range around 13 which their point estimates lie. They want people 14 to be aware that the estimate is somewhere in this 15 range. |
| | | 16 Q | Isn't it true the Census Bureau also wants individuals to be aware that the estimate may not be reliable? |
| | | 19 A | I'm not sure that's a correct statement 20 about the Census Bureau, but we have to see what 21 their documentation says on that. |
| | | 22 Q | Based on your experience, do you |

Transcript of William A.V. Clark, Ph.D.

21 (81 to 84)

Conducted on December 22, 2016

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| 1 understand that that's the reason they provide a 2 margin of error, to allow others to assess the 3 reliability of their estimates? | | 1 the number of claimed undocumented Hispanics in a 2 particular area? | |
| 4 A That's one of the reasons they do it, and 5 I've used what I believe is a reliable piece of 6 their margins of error, that is, the margin of error 7 for the census tract, which is quite large, 26 8 percent, for my margin of error for the undocumented 9 population. If we're talking only about the 10 Hispanic population, that margin of error is in ACS. 11 The only question is whether it applies to make an 12 estimate of the undocumented population. I believe 13 it does give us the best estimate. | | 3 A We can because they have taken the data at 4 these various levels and passed it down to smaller 5 levels. But when we look back at it at the county 6 level, we're getting very -- we're getting much more 7 reliable estimates because it's at a larger level. | |
| 14 Q But in coming to your conclusions, you 15 relied upon the CMS data at the PUMA level, correct? | | 8 And again and again you seem to be 9 unwilling to accept the fact that both experts found 10 a point estimate around 280 to 300. That point 11 estimate is a reasonable estimate of the 12 undocumented Hispanic population. We know that 13 there is an undocumented Hispanic population in the 14 county, in the PUMA, and in the tract. | |
| 16 A To estimate the number of undocumenteds in 17 that tract, I deduced it from the PUMA. | | 15 This discussion between two experts is 16 about the size of that population, not about whether 17 there is or isn't. There is. The question is 18 what's its size. I believe my point estimate and 19 using the ACS range gives us reliable results. | |
| 18 But recall again that the other data at 19 the county level is confirmatory of my result at the 20 local level. The fact that I'm getting something 21 similar gives me a great deal of confidence in that 22 value. If the value of the census tract level was | | 20 Q And Dr. Weinberg believes that your 21 results are inherently unreliable, right? | |
| 2 wildly different from the county level, I would be concerned about my point estimate, but I'm not. | 82 | 22 A Well, he's -- he provides a point estimate | 84 |
| 3 Q In relying upon the PUMA CMS estimate, you 4 do not know what the margin of error is for that 5 estimate, correct? | | 1 with no range, so I have no way of judging whether he finds my result unreliable apart from his discussion of the CMS bringing up to 900 percent, dividing it by one-eighth. I asked myself why is he dividing it by one-eighth and then bringing it down the 101 percent. But when I apply 101 percent to my data, as he says that's what the margin of error should be, I get nonsensical results. | |
| 6 A I think that question has been asked at 7 least twice before, and I've answered. We don't 8 know the margin of error for the CMS data. CMS did 9 not provide margins of error at the PUMA level. | | 9 Q Professor Clark, are you being paid for 10 your expert testimony in this case? | |
| 10 Q How can you as a demographer determine 11 whether their estimate is reliable or not? | | 11 A I am. | |
| 12 A They have gone through a complicated 13 process of taking the national data, positing it out 14 to state and to local areas. This is, as mine, the 15 best estimate of the number of undocumented. That 16 is a large team of demographers and statisticians 17 produced this data. It is publicly available now 18 online. I believe it is as reliable data as we can 19 get about the undocumented population. | | 12 Q And what is the rate that you're charging 13 for your expert work in this case? | |
| 20 Q Whether it's the most reliable or not, how 21 can you determine whether it's sufficiently reliable 22 to establish, for instance, in this case as a fact | | 14 A \$300 an hour. | |
| | | 15 Q How much have you charged to date for your 16 expert work in the case? | |
| | | 17 A About \$7,000. | |
| | | 18 Q Who has paid your fee? | |
| | | 19 A No one has paid it as yet. | |
| | | 20 Q Do you expect to be paid? | |
| | | 21 A I expect to be paid. | |
| | | 22 MR. DINGMAN: That's all the questions I | |

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22 (85 to 88)

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| | 85 | | 87 |
| 1 | have. Thank you for your time. | 1 | CERTIFICATE OF SHORTHAND REPORTER - NOTARY PUBLIC |
| 2 | THE WITNESS: Thank you. Thank you, sir. | 2 | I, Kelly Carnegie, Certified Shorthand |
| 3 | MR. KIM: We don't have any questions. | 3 | Reporter, Registered Professional Reporter, the |
| 4 | We'll review the transcript. | 4 | officer before whom the foregoing proceedings were |
| 5 | MR. DINGMAN: All right. Thank you. | 5 | taken, do hereby certify that the foregoing |
| 6 | (Off the record at 6:04 p.m.) | 6 | transcript is a true and correct record of the |
| 7 | | 7 | proceedings; that said proceedings were taken by me |
| 8 | | 8 | stenographically and thereafter reduced to |
| 9 | | 9 | typewriting under my direction; that reading and |
| 10 | | 10 | signing was requested; and that I am neither counsel |
| 11 | | 11 | for, related to, nor employed by any of the parties |
| 12 | | 12 | to this case and have no interest, financial or |
| 13 | | 13 | otherwise, in its outcome. |
| 14 | | 14 | IN WITNESS WHEREOF, I have hereunto set my |
| 15 | | 15 | hand and affixed my notarial seal this 27th day of |
| 16 | | 16 | December, 2016. |
| 17 | | 17 | My commission expires: July 31, 2018 |
| 18 | | 18 |  |
| 19 | | 19 | <u>Kelly Carnegie</u> |
| 20 | | 20 | NOTARY PUBLIC IN AND FOR THE |
| 21 | | 21 | COMMONWEALTH OF VIRGINIA |
| 22 | | 22 | Notary Registration Number: 7060756 |
| | 86 | | |
| 1 | ACKNOWLEDGEMENT OF DEONENT | | |
| 2 | I, WILLIAM A.V. CLARK, Ph.D., do | | |
| 3 | hereby acknowledge that I have read and examined the | | |
| 4 | foregoing testimony, and the same is a true, correct | | |
| 5 | and complete transcription of the testimony given by | | |
| 6 | me and any corrections appear on the attached Errata | | |
| 7 | sheet signed by me. | | |
| 8 | | | |
| 9 | | | |
| 10 | | | |
| 11 | (DATE) _____ | (SIGNATURE) _____ | |
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